

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.,

Civil No. 09-1993 (JRT/JSM)

Plaintiff,

**ORDER**

v.

NAYANA SHROFF, KAMLESH L.  
SHROFF, CITIFINANCIAL SERVICES,  
INC., and UNITED STATES OF  
AMERICA,

Defendants.

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Maret R. Olson, **MORRISON FENSKE & SUND, PA**, 5125 County Road 101, Suite 102, Minnetonka, MN 55345, for plaintiff.

Friedrich A.P. Siekert and Roylene A. Champeaux, Assistant United States Attorneys, **OFFICE OF THE UNITED STATES ATTORNEY**, 600 United States Courthouse, 300 South Fourth Street, Minneapolis, MN 55415, for defendant United States of America.

Plaintiff Mortgage Electronic Registration System, Inc. (“MERS”), which was assigned the rights of a mortgagee in a property, alleges that the property’s Warranty Deed (“the deed”) mistakenly lists both the mortgagor-borrower, defendant Nayana Shroff, as well as her husband, defendant Kamlesh Shroff. The Internal Revenue Service (“IRS”, or “the government”) subsequently placed a lien for unpaid income taxes against the interest of Kamlesh Shroff in the property. According to the complaint, defendant CitiFinancial Services, Inc. (“CitiFinancial”) is a mortgagee holding a mortgage by

Nayana Shroff and Kamlesh Shroff in the original principal amount of \$15,687.55. In this action, MERS seeks (1) a declaratory judgment reforming the deed to reflect conveyance of title to Nayana Shroff alone, as well as (2) a declaration that the United States either has no interest in the property or that its interests are subordinate to MERS' interest.

The Shroffs have not responded to the complaint or entered an appearance, and MERS requests a default judgment against them as well as the other non-responsive defendant CitiFinancial. The only responsive defendant was the government, which moved for partial summary judgment against MERS. MERS also moved for summary judgment, asserting that it is entitled to reformation of the deed as a matter of law. While the motions were pending, MERS and the government submitted a stipulation agreeing to dismiss the government from this action with prejudice. The Court adopted the stipulation on September 28, 2011. [Docket No. 31.] Accordingly, the parties' cross-motions for summary judgment are now moot. The only outstanding motion before the Court is MERS' motion for a default judgment. The Shroffs' failure to respond to this lawsuit leads the Court to infer that they agree with the allegations in the complaint and intended the deed to reflect conveyance of title solely to Nayana Shroff. The Court is therefore inclined to grant MERS' request for a default judgment. In an abundance of caution, however, the Court will offer the Shroffs an additional opportunity to dispute the allegations.

Within thirty days of the date of this Order, the parties are ordered to show cause why the Court should not grant MERS' Motion for Entry of Default Judgment Against

Defendants Nayana Shroff, Kamlesh Shroff and CitiFinancial Services, Inc. Within twenty days of the date of this Order, MERS will provide proof to the Court that Nayana Shroff and Kamlesh Shroff were served in person with a copy of this Order.

**ORDER**

Based on the foregoing, and the records, files, and proceedings herein, **IT IS HEREBY ORDERED** that:

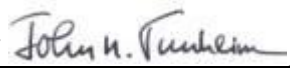
1. Defendant United States of America's Motion for Summary Judgment [Docket No. 16] is **DENIED as moot**.

2. Plaintiff MERS' Motion for Summary Judgment Against Defendant United States of America [Docket No. 10] is **DENIED as moot**.

3. Within thirty (30) days of the date of this Order, the parties are ordered to show cause why the Court should not grant MERS' Motion for Entry of Default Judgment Against Defendants Nayana Shroff, Kamlesh Shroff and CitiFinancial Services, Inc. [Docket No. 10].

4. Within twenty (20) days of the date of this Order, MERS will provide proof to the Court that Nayana Shroff and Kamlesh Shroff were served in person with a copy of this Order.

DATED: September 29, 2011  
at Minneapolis, Minnesota.

s/   
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JOHN R. TUNHEIM  
United States District Judge